

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION	: : : : : : :	Master Docket: Misc. No. 21-mc-1230-JFC MDL No. 3014 SHORT FORM COMPLAINT FOR PERSONAL INJURIES, DAMAGES, AND DEMAND FOR JURY TRIAL
This Document Relates to:	:	PERSONAL INJURIES, DAMAGES, AND DEMAND FOR JURY TRIAL
[Plaintiff Name(s)]	:	

Plaintiff(s) incorporate(s) by reference the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the “Master Long Form Complaint”). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants, as set forth in Paragraphs 9, 10 and 11 or an additional sheet attached hereto; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint, as set forth in Paragraphs 12 and 13 or an additional sheet attached hereto.

Plaintiff(s) further allege(s) as follows:

I. DEFENDANTS

1. Plaintiff(s) name(s) the following Defendants in this action:

 X Koninklijke Philips N.V.

 X Philips North America LLC.

X Philips RS North America LLC.

 X Philips Holding USA Inc.

 X Philips RS North America Holding Corporation.

 Polymer Technologies, Inc.

 Polymer Molded Products LLC.

 Polymer Technologies, Inc. Elastomeric Solutions Division.

II. PLAINTIFF(S)

2. Name of Plaintiff(s):

LAWRENCE J. SPIEKERMEIER

3. Name of spouse of Plaintiff (if loss of consortium claim is being made):

4. Name and capacity (*i.e.*, executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:

5. State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death):

Montana

III. DESIGNATED FORUM

6. Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing:

**DISTRICT COURT FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION , 9:22-cv-00158-DLC**

IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

<input type="checkbox"/> <i>E30 (Emergency Use Authorization)</i> <input type="checkbox"/> <i>DreamStation ASV</i> <input type="checkbox"/> <i>DreamStation ST, AVAPS</i> <input checked="" type="checkbox"/> <i>SystemOne ASV4</i> <input type="checkbox"/> <i>C-Series ASV</i> <input type="checkbox"/> <i>C-Series S/T and AVAPS</i> <input type="checkbox"/> <i>OmniLab Advanced +</i> <input type="checkbox"/> <i>SystemOne (Q-Series)</i> <input type="checkbox"/> <i>DreamStation</i> <input type="checkbox"/> <i>DreamStation Go</i> <input type="checkbox"/> <i>Dorma 400</i>	<input type="checkbox"/> <i>Dorma 500</i> <input type="checkbox"/> <i>REMstar SE Auto</i> <input type="checkbox"/> <i>Trilogy 100</i> <input type="checkbox"/> <i>Trilogy 200</i> <input type="checkbox"/> <i>Garbin Plus, Aeris, LifeVent</i> <input type="checkbox"/> <i>A-Series BiPAP Hybrid A30 (not marketed in U.S.)</i> <input type="checkbox"/> <i>A-Series BiPAP V30 Auto</i> <input type="checkbox"/> <i>A-Series BiPAP A40</i> <input type="checkbox"/> <i>A-Series BiPAP A30</i> <input checked="" type="checkbox"/> <i>Other Philips Respironics Device; if other, identify the model:</i> <u>"Philips Respironics, BiPAP Pro, Bi-Flex, System One"</u>
--	--

V. INJURIES

8. Plaintiff alleges the following physical injuries as a result of using a Recalled Device together with the attendant symptoms and consequences associated therewith:

- ☐ COPD (new or worsening)
- ☐ Asthma (new or worsening)
- ☐ Pulmonary Fibrosis
- ☐ Other Pulmonary Damage/Inflammatory Response
- ☒ Cancer **high grade papillary urothelial carcinoma,** (specify cancer)
liver, kidney

☒ Kidney Damage

☒ Liver Damage

☐ Heart Damage

☐ Death

☒ Other (specify) Bones

VI. CAUSES OF ACTION/DAMAGES

9. As to claims against Koninklijke Philips N.V., Philips North America LLC, Philips RS North America LLC, Philips Holding USA Inc., and Philips RS North America Holding Corporation, Plaintiff(s) adopt(s), in this Short Form Complaint, the following claims asserted in the Master Long Form Complaint for Personal Injuries Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

~~___X___~~ Count I: Negligence

~~___X___~~ Count II: Strict Liability: Design Defect

~~___X___~~ Count III: Negligent Design

~~___X___~~ Count IV: Strict Liability: Failure to Warn

~~___X___~~ Count V: Negligent Failure to Warn

~~___X___~~ Count VI: Negligent Recall

~~___X___~~ Count VII: Battery

~~___X___~~ Count VIII: Strict Liability: Manufacturing Defect

~~___X___~~ Count IX: Negligent Manufacturing

~~___X___~~ Count X: Breach of Express Warranty

~~___X___~~ Count XI: Breach of the Implied Warranty of Merchantability

~~___X___~~ Count XII: Breach of the Implied Warranty of Usability

~~___X___~~ Count XIII: Fraud

~~___X___~~ Count XIV: Negligent Misrepresentation

- ☒ Count XV: Negligence Per Se
- ☒ Count XVI: Consumer Fraud and/or Unfair and Deceptive Practices Under State Law (specify)
- ☒ Count XVII: Unjust Enrichment
- ☐ Count XVIII: Loss of Consortium
- ☐ Count XIX: Survivorship and Wrongful Death
- ☒ Count XX: Medical Monitoring
- ☒ Count XXI: Punitive Damages
- ☒ Count XXII: Other [specify below]

<p>Plaintiff reserves the right to amend this Short Form in the event Plaintiff's injuries worsen</p>
--

10. As to claims against Polymer Technologies, Inc., Polymer Molded Products LLC, Polymer Technologies, Inc., Elastomeric Solutions Division, Plaintiff(s) adopt(s), in this Short Form Complaint, the following claims asserted in the Master Long Form Complaint for Personal Injuries Damages and Demand for Jury Trial, and the allegations and prayer for relief with regard thereto, as set forth therein:

- ☐ Count I: Negligence
- ☐ Count II: Strict Liability: Design Defect
- ☐ Count III: Negligent Design
- ☐ Count IV: Strict Liability: Failure to Warn
- ☐ Count V: Negligent Failure to Warn
- ☐ Count VIII: Strict Liability: Manufacturing Defect
- ☐ Count IX: Negligent Manufacturing
- ☐ Count XIII: Fraud
- ☐ Count XIV: Negligent Misrepresentation
- ☐ Count XVII: Unjust Enrichment

_____ Count XVIII: Loss of Consortium

_____ Count XIX: Survivorship and Wrongful Death

_____ Count XX: Medical Monitoring

_____ Count XXI: Punitive Damages

_____ Count XXII: Other [specify below]

11. If additional claims against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial are alleged in Paragraphs 9 and 10 above, the facts supporting these allegations must be pleaded. Plaintiff(s) assert(s) the following additional factual allegations against the Defendants identified in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial:

12. Plaintiff(s) contend(s) that additional parties may be liable or responsible for Plaintiff(s)' damages alleged herein. Such additional parties, who will be hereafter referred to as Defendants, are as follows (must name each Defendant and its citizenship):

13. Plaintiff(s) assert(s) the following additional claims and factual allegations against other Defendants named in Paragraph 12 above:

STRICT PRODUCT LIABILITY
FRAUDULENT MISREPRESENTATION
FRAUD BY OMISSION
CONSUMER PROTECTION ACT (Mont. Code Ann. §§
30-14-1 et seq.)

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: 12/6/22

/s/ Alexander G. Cabeceiras
Alexander G. Cabeceiras, Esq.
Derek Smith Law Group, PLLC
One Penn Plaza, Suite 4905,
New York, New York 10119
(332) 910-5631